

APPEAL NO. 021547
FILED JULY 19, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 14, 2002. The hearing officer decided that the respondent's (claimant herein) compensable injury of _____, extended to and included bilateral ulnar entrapment at the elbows. The appellant (carrier herein) filed a request for review contending that this determination was contrary to the evidence. The claimant responds that the decision of the hearing officer should be affirmed.

DECISION

The hearing officer's decision has become final pursuant to Section 410.169, because the carrier's appeal was not timely filed with the Texas Workers' Compensation Commission (Commission).

The applicable law governing this case, Section 410.202 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)), requires that an appeal, to be timely, must be filed or mailed not later than the 15th day after the date of receipt of the hearing officer's decision and received by the Commission not later than the 20th day after the date of receipt of the hearing officer's decision. A party who wishes to appeal the decision and order must file a request for review not later than 15 days after the date on which the decision is received from the Commission's Division of Hearings, pursuant to Section 410.202, which was amended June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in the Government Code in the computation of the 15-day appeal and response periods.

Records of the Commission show that the carrier received the hearing officer's decision on Friday, May 17, 2002. Thus the carrier's request for review had to be sent to the Commission by June 10, 2002, and received by the Commission no later than Monday, June 17, 2002. The only request for review in the appeal file was sent by facsimile transmission to the Commission on June 26, 2002. There is an entry in the Commission computer records indicating that the Commission called the carrier's attorney on June 26, 2002, and was informed that the attorney had hand-delivered the carrier's request for review to the Commission on June 7, 2002. However, the copy faxed to the Commission on June 26, 2002, does not bear a Commission file-stamp other than June 26, 2002. Thus it was not established that the carrier's request for review was either sent to the Commission within the 15-day time frame or received by the Commission within the 20-day time-frame. The carrier's appeal is therefore untimely.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked, and the decision and order of the hearing officer have become final under Section 410.169.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBERT PARNELL
8144 WALNUT HILL LANE
SUITE 1600
DALLAS, TEXAS 75231-4813.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge